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EVIDENCE—PRIVILEGED COMMUNICATIONS BETWEEN HUSBAND AND WIFE.—“ANY COMMUNICATION” CONSTRUED.—An Oregon statute provided that neither husband nor wife could be, without the consent of the other, examined as to any communication made by one to the other during the marriage relation. In an action for alienation of affections, *held*, this statute applies to all communications, and not merely to communications confidential in their nature. *Pugsley v. Smyth* (Ore., 1921), 194 Pac. 686.

Another state is thus added to those whose literal interpretation allows such a statute, in the language of Professor Wigmore, “to create an intolerable anomaly in the law of privileged communications.” WIGMORE, EV., § 2336. Iowa, Michigan, Ohio, Utah and Washington have construed “any communication” to mean only those which in their nature seem confidential. See *Sexton v. Sexton*, 129 Iowa 487; *Ward v. Oliver*, 129 Mich. 300. California, Colorado, Illinois, Rhode Island and Virginia construe the words in their natural meaning to embrace all communications of whatever kind. *Park v. Park*, 40 Colo. 354; *Reeves v. Herr*, 59 Ill. 81. The reason for this difference of view no doubt arises partly from the conflict as to the extent of the common law rule. The Minnesota court says that the common law was settled in England in 1842 by the case of *O'Connor v. Majoribanks*, 4 Mann. & Gran. 435, and extended to communications on all subjects. *Leppla v. Minn. Trib. Co.*, 35 Minn. 310. See also BEST, EV. [10th Ed.], 175. Yet many years later it was declared that the common law rule extended only to confidential communications. *People v. Mullings*, 83 Cal. 138. Statutes removing disability of witnesses on account of being parties to, or interested in, the action have been held not to remove the disability existing between husband and wife as to confidential communications. *Gee v. Scott*, 48 Tex. 510; *Hopkins v. Grimshaw*, 165 U. S. 342. These decisions seem to indicate that the chief reason for the privilege was to protect the confidences of the marriage, and not because of the common law doctrine of the legal identity of husband and wife. *O'Connor v. Majoribanks*, *supra*, recognizes that public policy was the foundation for the rule, but denies that the rule would be effective if extended only to confidential communications. It would seem, however, that the rule should be coextensive with the reason. See 9 MICH. L. REV. 248.

EVIDENCE—“THIRD DEGREE” CONFESSION NOT VOLUNTARY.—Plaintiff in error had been convicted of murder solely upon his own repudiated confession, which was made under the following circumstances: While being held incommunicado, without process, he was questioned almost continuously by various officers for the greater part of four nights and three days; no threats of violence or hope of leniency were held out; he was warned that anything he might say would be used against him. After professing total ignorance of the crime during all this time, he finally confessed to having driven the automobile from which the fatal shots were fired. *Held*, confession was not voluntary and was inadmissible in evidence. *Vinci v. The People* (Ill., 1920), 129 N. E. 193.